

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DALE TREIBER,

Plaintiff,

v.

ERIE POLICE DEPARTMENT, et al.,

Defendants.

Civil Action No. 05-278 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on September 27, 2005, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 26], filed on October 27, 2006, recommended that Defendants' motion for summary judgment [Doc. No. 14] be granted. It was further recommended that, pursuant to the Prison Litigation Reform Act, that Plaintiff's complaint be dismissed for failing to state a claim upon which relief can be granted as against Defendant Ahlbrandt. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 21st day of November, 2006;

IT IS HEREBY ORDERED that the Defendants' motion for summary judgment [Doc. No. 14] is GRANTED. IT IS FURTHER ORDERED that, pursuant to the Prison Litigation Reform Act, Plaintiff's complaint is DISMISSED for failing to state a claim upon which relief can be granted as against Defendant Ahlbrandt.

The Report and Recommendation [Doc. No. 26] of Magistrate Judge Baxter, filed on October 27, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge